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NYPD January 1992- December 1993

SCPD December 1993-present

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Use of force in New York State

The Who, What, When, Why and How.

There any special powers, and circumstances, to use force, granted in Article 35.

...conduct which would otherwise constitute an offense is justifiable and not criminal when:

- Such conduct is required or authorized by law or by judicial decree, or is performed by a public servant in the *reasonable* exercise of his official powers, duties or functions.
- Police officers are the only class of governmental agents that, without prior judicial review, are permitted to use force—up to and including deadly force—against members or the communities they are sworn to protect.

What guides SCPD use of
Force?

UNITED STATES CONSTITUTION

NYS PL Article 35

CASE LAW

SCPD
R&P'S

CASE LAW

Graham vs Connor . US Supreme Ct. 1989

The case involve the use of physical force and restraints, and raised the following questions with regard to the use of force

- Did the officer act in good faith?
- Was the force used malicious or sadistic for the purpose of causing harm?
- What was the relationship between what force was needed and what was used?

The Supreme Court put forward several factors to determine liability when an officer uses force, and further clarified how an officer's actions should be viewed.

- Is the subject an immediate threat?
- What is the severity of the crime?
- Is the subject actively resisting arrest or attempting to escape custody.

Objectively Reasonable.

Term that was authored in the Supreme Ct decision.

An objective standard used to judge an officer's actions. Under this standard a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time the force was used.

What is in SCPD Rules and Procedures? Policy, Procedure, Prohibitions and Definitions.

What is in our force model?

It is a visual aid used to better explain that our tactical options are dictated by the subject's actions and a reasonable officer's threat perception.

SCPD Policy, Procedure and Mission Statement all emphasize the following, with regard to an officer's use of force.

Sanctity of life

Least amount of force necessary to accomplish goal

Goal of police law enforcement...gain voluntary compliance

Minimum Force Necessary Concept

De-escalation

Alternatives

Resources

Use of Tactics.....time, distance and cover

Mental Illness Issues

Duty to Intervene

SCPD**FORCE****MODEL**

<i>THREAT PERCEPTION</i>	<i>TACTICAL OPTIONS</i>	<i>LIKELY RESULT</i>
COMPLIANT OR PASSIVE	COOPERATIVE AND CONTACT CONTROLS PROFESSIONAL COMMUNICATIONS COMPLIANT HANDCUFFING ESCORT/SEARCHING	NO PAIN
MODERATE RISK COMPLIANT PLUS PASSIVE PLUS ACTIVE RESISTANCE	COMPLIANCE TECHNIQUES KNEELING/ PRONE HANDCUFFING RESISTIVE HANDCUFFING LEVERAGE TECH. / JOINT MANIPULATION BREAKDOWNS / LEG CONTROLS PRESSURE POINTS/ SOFT PERSONAL WEAPONS	TEMPORARY PAIN ONLY
HIGH RISK ACTIVE RESIST PLUS ASSUALT/ MENACING	DEFENSIVE TACTICS CHEMICAL AGENTS HARD PERSONAL WEAPONS TAKE DOWNS/ BATON/TASER	INJURY
DEADLY RISK ASSAULT/ MEN. PLUS DPF	DPF FIREARMS ANY OTHER DPF	SPI OR DEATH

Duty to Intervene.

Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.

NYS Municipal Police Training Council

Officers who have an opportunity to intervene in an excessive use of force must do so, or risk personal liability for a civil rights violation based upon their failure to intervene.

The court asserted: “ Police officers have an affirmative duty to intercede on behalf of a citizen whose constitutional rights are being violated in their presence by other officers.”

Jones v. City of Hartford, 2003 U.S. Dist.

THE CYCLE...

